



FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) requests that the Office of Management and Budget (“OMB”) extend for three years the current Paperwork Reduction Act (“PRA”) clearances for information collection requirements contained in four consumer financial regulations enforced by the Commission. Those clearances expire on September 30, 2021.

DATES: Comments must be filed by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under Review - Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Carole Reynolds or Stephanie Rosenthal, Attorneys, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580, (202) 326-3224.

SUPPLEMENTARY INFORMATION:

The four regulations covered by this notice are:

- (1) Regulations promulgated under the Equal Credit Opportunity Act, 15 U.S.C. 1691 et seq. (“ECOA”) (“Regulation B”) (OMB Control Number: 3084-0087);
- (2) Regulations promulgated under the Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq. (“EFTA”) (“Regulation E”) (OMB Control Number: 3084-0085);
- (3) Regulations promulgated under the Consumer Leasing Act, 15 U.S.C. 1667 et seq.

(“CLA”) (“Regulation M”) (OMB Control Number: 3084-0086); and

(4) Regulations promulgated under the Truth-In-Lending Act, 15 U.S.C. 1601 et seq.

(“TILA”) (“Regulation Z”) (OMB Control Number: 3084-0088).

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Abstract:

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), Pub. L. 111–203, 124 Stat. 1376 (2010), almost all rulemaking authority for the ECOA, EFTA, CLA, and TILA transferred from the Board of Governors of the Federal Reserve System (“Board”) to the Consumer Financial Protection Bureau (“CFPB”) on July 21, 2011 (“transfer date”). To implement this transferred authority, the CFPB published new regulations in 12 CFR part 1002 (Regulation B), 12 CFR part 1005 (Regulation E), 12 CFR part 1013 (Regulation M), and 12 CFR part 1026 (Regulation Z) for those entities under its rulemaking jurisdiction.¹

Although the Dodd-Frank Act transferred most rulemaking authority under ECOA, EFTA, CLA, and TILA to the CFPB, the Board retained rulemaking authority for certain motor vehicle dealers² under all of these statutes and also for certain interchange-related requirements under EFTA.³

As a result of the Dodd-Frank Act, the FTC and the CFPB generally share the authority to enforce Regulations B, E, M, and Z for entities for which the FTC had enforcement authority before the Act, except for certain motor vehicle dealers.⁴ Because of this shared enforcement

¹ 12 CFR pt. 1002 (Reg. B) (81 FR 25323, Apr. 28, 2016); 12 CFR pt. 1005 (Reg. E) (81 FR 25323, Apr. 28, 2016); 12 CFR pt. 1013 (Reg. M) (81 FR 25323, Apr. 28, 2016); 12 CFR pt. 1026 (Reg. Z) (81 FR 25323, Apr. 28, 2016).

² Generally, these are dealers “predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.” See Dodd-Frank Act, § 1029(a), (c), 12 U.S.C. 5519(a), (c).

³ See Dodd-Frank Act, § 1075, 15 U.S.C. 1693 (these requirements are implemented through Board Regulation II, 12 CFR pt. 235, rather than EFTA’s implementing Regulation E).

⁴ The FTC’s enforcement authority includes state-chartered credit unions; other federal agencies also have various enforcement authority over credit unions. For example, for large credit unions (exceeding \$10 billion in assets), the CFPB has certain authority. The National Credit Union Administration also has certain authority for state-chartered federally insured credit unions, and it additionally provides insurance for certain

jurisdiction, the two agencies have divided the FTC's previously-cleared PRA burden estimates between them,⁵ except that the FTC has assumed all of the burden estimates associated with motor vehicle dealers⁶ and state-chartered credit unions. The division of PRA burden hours not attributable to motor vehicle dealers and state-chartered credit unions is reflected in the CFPB's PRA clearance requests to OMB, as well as in the FTC's burden estimates below.

Pursuant to the Dodd-Frank Act, the FTC generally has sole authority to enforce Regulations B, E, M, and Z regarding certain motor vehicle dealers predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, that, among other things, assign their contracts to unaffiliated third parties.⁷ Because the FTC has exclusive jurisdiction to enforce these rules for such motor vehicle dealers and retains its concurrent authority with the CFPB for other types of motor vehicle dealers, and in view of the different types of motor vehicle dealers, the FTC retains the entire PRA burden for motor vehicle dealers in the burden estimates below.

1. Regulation B

The ECOA prohibits discrimination in the extension of credit. Regulation B implements

state-chartered credit unions through the National Credit Union Share Insurance Fund and examines credit unions for various purposes. There are approximately three state-chartered credit unions exceeding \$10 billion in assets, and the CFPB assumes PRA burden for those entities. As of the fourth quarter of 2020, there were approximately 2,126 state-chartered credit unions – 1,914 which were federally insured, an estimated 112 or more which were privately insured, and an estimated 100 or more in Puerto Rico which were insured by a quasi-governmental entity. Because of the difficulty in parsing out PRA burden for such entities in view of the overlapping authority, the FTC's figures include PRA burden for all state-chartered credit unions. However, in view of fluctuations due to COVID -19 and to avoid undercounting, we have retained the prior estimate of 2,300 state-chartered credit unions. As noted above, the CFPB's figures as to state-chartered credit unions include burden for those entities exceeding \$10 billion in assets. *See generally* Dodd-Frank Act, §§ 1061, 1025, 1026. This attribution does not change actual enforcement authority.

⁵ The CFPB also factors into its burden estimates respondents over which it has jurisdiction but the FTC does not.

⁶ *See* Dodd-Frank Act § 1029, 12 U.S.C. 5519(a), as to motor vehicle dealers, as limited by subsection (b). Subsection (b) does not preclude CFPB regulatory oversight regarding, among others, businesses that extend retail credit or retail leases for motor vehicles in which the credit or lease offered is provided directly from those businesses, rather than unaffiliated third parties, to consumers. It is not practicable, however, for PRA purposes, to estimate the portion of dealers that engage in one form of financing versus another (and that would or would not be subject to CFPB oversight). Thus, FTC staff's PRA burden analysis reflects a general estimated volume of motor vehicle dealers. This attribution does not change actual enforcement authority.

⁷ *See* Dodd-Frank Act, § 1029, 12 U.S.C. 5519(a), (c).

the ECOA, establishing disclosure requirements to assist customers in understanding their rights under the ECOA and recordkeeping requirements to assist agencies in enforcement. Regulation B applies to retailers, mortgage lenders, mortgage brokers, finance companies, and others.

Estimated Annual Burden Hours: 1,797,798 hours (Total)

Recordkeeping: 708,886 hours

Disclosures: 1,088,912 hours

Estimated Annual Labor Costs: \$65,320,576 (Total)

Recordkeeping: \$15,666,176

Disclosures: \$49,654,400

Estimated Annual Non-Labor Costs: \$0.

2. Regulation E

The EFTA requires that covered entities provide consumers with accurate disclosure of the costs, terms, and rights relating to EFT and certain other services. Regulation E implements the EFTA, establishing disclosure and other requirements to aid consumers and recordkeeping requirements to assist agencies with enforcement. It applies to financial institutions, retailers, gift card issuers and others that provide gift cards, service providers, various federal and state agencies offering EFTs, prepaid account entities, and others.

Estimated Annual Burden Hours: Total: 7,435,956 hours

Recordkeeping: 251,053 hours

Disclosures: 7,184,903 hours

Estimated Annual Labor Costs: \$332,803,360 (Total)

Recordkeeping: \$5,171,684

Disclosures: \$327,631,676

Estimated Annual Non-Labor Costs: \$0.

3. Regulation M

The CLA requires that covered entities provide consumers with accurate disclosure of the costs and terms of leases. Regulation M implements the CLA, establishing disclosure requirements to help consumers comparison shop and understand the terms of leases and recordkeeping requirements. It applies to vehicle lessors (such as auto dealers, independent leasing companies, and manufacturers' captive finance companies), computer lessors (such as computer dealers and other retailers), furniture lessors, various electronic commerce lessors, diverse types of lease advertisers, and others.

Estimated Annual Burden Hours: 101,953 hours (Total)

Recordkeeping: 30,203 hours

Disclosures: 71,750 hours

Estimated Annual Labor Costs: \$5,954,060 (Total)

Recordkeeping: \$1,763,860

Disclosures: \$4,190,200

Estimated Annual Non-Labor Costs: \$0.

4. Regulation Z

The TILA was enacted to foster comparison credit shopping and informed credit decisionmaking by requiring creditors and others to provide accurate disclosures regarding the costs and terms of credit to consumers. Regulation Z implements the TILA, establishing disclosure requirements to assist consumers and recordkeeping requirements to assist agencies with enforcement. These requirements pertain to open-end and closed-end credit and apply to various types of entities, including mortgage companies; finance companies; auto dealerships; private education loan companies; merchants who extend credit for goods or services; credit advertisers; acquirers of mortgages; and others. Additional requirements also exist in the mortgage area, including for high cost mortgages, higher-priced mortgage loans,⁸ ability to pay

⁸ While Regulation Z also requires the creditor to provide a short written disclosure regarding the appraisal

of mortgage consumers, mortgage servicing, loan originators, and certain integrated mortgage disclosures.

Estimated Annual Burden Hours: 8,416,441 (Total)

Recordkeeping: 561,866 hours

Disclosures: 7,854,575 hours

Estimated Annual Labor Costs: \$369,744,078 (Total)

Recordkeeping: \$11,574,450

Disclosures: \$358,169,628

Estimated Annual Non-Labor Costs: \$0.

Request for Comment:

On May 17, 2021, the Commission sought comment on the information collection requirements associated with Regulations B, E, M, and Z. 86 FR 26,725 (May 17, 2021). No relevant comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew clearance for the Rule's information collection requirements.

Your comment – including your name and your state – will be placed on the public record of this proceeding. Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential" as provided in

process for higher-priced mortgage loans, the disclosure is provided by the CFPB. As a result, it is not a "collection of information" for PRA purposes (*see* 5 CFR 1320.3(c)(2)).

Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

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